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53156 7590 11/16/2007 YOUNG LAW FIRM, P.C. 4370 ALPINE RD. STE. 106 PORTOLA VALLEY, CA 94028			EXAMINER VIG, NARESH	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

Application Number: 09/833,034
Filing Date: April 10, 2001
Appellant(s): KAMATH ET AL.

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GROUP 3600

Alan W. Young (Reg. No. 37,970)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 07 August appealing from the Office action mailed 15 November 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

Claims 2, 6, 8, 25, 29, 31, 48, 52 and 54 have been canceled.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Information on Barnes & Noble printed through www.archive.org wherein date of the archived webpage is in the URL of the webpage in YYYYMMDD format.

5,96-,411	HARTMAN et al.	9-1999
5,712,989	JOHNSON et al.	01-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3 – 5, 7, 9 – 24, 26 – 28, 30, 32 – 47, 49 – 51, 53 and 55 – 69 are not patentable over Barnes & Noble hereinafter known as B&N in view of Hartman et al. US Patent 5,960,411 hereinafter known as Hartman.

Regarding claims 1, 24 and 47, B&N teaches system and method of processing an online purchase request from a customer to a vendor over the computer network. B&N in view of Hartman teaches express checkout button on web page [B&N, page 12, 13]. B&N teaches:

receiving a first online purchase request for a first item [B&N, page 12, 13, 37];

responsive to receiving the first online request, providing a bifurcated order processing route that requests the customer to choose a first order processing route (Express Checkout) or a second order processing route (Shopping Cart) [B&N, page 12, 13, 28, 37 (customer can use express checkout, or, add item(s) to cart)],

the first order processing route causing the first online purchase request to be processed according to an express processing procedure that requires no further input by the customer to execute the first online purchase request [B&N, page 12, 13, 37]

receiving for customer a selection of order processing route and processing the order according to customer's selection [B&N, page 12, 13, 28, 37].

B&N teaches processing of orders placed in shopping cart to be processed according to the express ordering processing. B&N does not teach processing the order without further input of user. However, Hartman teaches idea of process customer order using express ordering processing (1-click) without further input from user ("Order faster with 1-click", "Thank you for your 1-click order", and, allows customers to Review or change their already placed 1-click orders, see "A quantity of 1 pf the item will be shipped to you as soon as possible", i.e. shopping cart processed with single click) [Hartman, Fig. 1A, 1B and disclosure associated with Fig. 1A, 1B].

Therefore, it would have been obvious to modify B&N as taught by Hartman to take a single action to place the order to expedite taking of customer orders.

B&N in view of Hartman teaches:

website www.BarnesAndNoble.com;

at least one processor (B&N server);

at least one data storage device (B&N in view of Hartman teaches to store account information);

a plurality of processes spawned by said at least one processor (B&N in view of Hartman teaches to allow customers to perform plurality of functions on their web site, capability for plurality of customers to access B&N system).

Regarding claims 3, 26 and 49, B&N in view of Hartman teaches enabling the customer to create a list that includes the first and at least one second item, the list being persistently stored to enable later retrieval and use [B&N, page 12, 37].

Regarding claims 4, 27 and 50, B&N in view of Hartman teaches first item includes a uniquely identified and pre-stored list of goods [B&N, page 12, 13, 37].

Regarding claims 5, 28 and 51, B&N in view of Hartman teaches list (shopping cart) includes an object, the object including at least one of another list and item.

Regarding claims 9, 32 and 55, B&N in view of Hartman teaches:

generating a first quote that includes the processed first online purchase request, the first quote including at least one of an identification of the first item and an identification of the shopping cart [B&N, page 12];

enabling modifications to be made to the first quote, the first quote persisting at least until a consolidation interval has elapsed (How to remove or change items in your cart) [B&N, page 12];

carrying out the converting step by converting the first quote into the first executable order when a quote conversion process determines that the first quote has remained unmodified at least for the consolidation interval (you have 90 minutes to make any changes) [B&N, page 12].

Regarding claims 10, 33 and 56, B&N in view of Hartman teaches generating an order status Web page that is viewable by the customer, the order status Web page displaying selected details of the first quote (how can I check on my order) [B&N, page 24].

Regarding claims 11, 34 and 57, B&N in view of Hartman teaches order status Web page is configured to refer to the first quote as a pending order (how can I check on my order) [B&N, page 24].

Regarding claims 12, 35 and 58, B&N in view of Hartman teaches to allow at least one of the customer a selected process and an authorized person to modify the first quote.

Regarding claims 13, 36 and 59, B&N in view of Hartman teaches an authorized person includes the customer and a sales representative.

Regarding claims 14, 37 and 60, B&N in view of Hartman teaches quote conversion process is launched at a selectable interval (hold to complete) [B&N, page 14].

Regarding claims 15, 38 and 61, B&N in view of Hartman teaches consolidation interval is measured from a time at which the quote conversion process is launched (hold to complete) [B&N, page 14].

Regarding claims 16, 39 and 62, B&N in view of Hartman teaches quote conversion process runs continuously (hold to complete) [B&N, page 14].

Regarding claims 17, 40 and 63, B&N in view of Hartman teaches converting the first and any second purchase request into an executable order and sending the executable order to an order fulfillment system (hold to complete) [B&N, page 14].

Regarding claims 18, 41 and 64, B&N in view of Hartman teaches receiving a second online purchase request for a second item from the customer over the computer network, and adding the second item to the first quote when the second online purchase

request is received before the first quote is converted into the first order (hold to complete) [B&N, page 14].

Regarding claims 19, 42 and 65, B&N in view of Hartman teaches receiving a second online purchase request for a second item from the customer over the computer network, and adding the second item to the first quote when the quote conversion process determines that the first quote has remained unmodified for a period of time that is less than the consolidation interval [B&N, page 14, 24].

Regarding claim 20, 43 and 66, B&N in view of Hartman teaches receiving a second online purchase request for a second item from the customer over the computer network, and generating a second quote that includes an identification of the second item and the retrieved information when the quote conversion process determines that the first quote has remained unmodified for a period of time greater than the consolidation interval [B&N, page 14, 24].

Regarding claims 21, 44 and 67, B&N in view of Hartman teaches quote conversion process determines a difference between a time at which a last modification to the first quote was made and a current time and converts the quote to the first order when the difference is greater than the consolidation interval [B&N, page 14, 24].

Regarding claim 22, 45 and 68, B&N in view of Hartman teaches sending a message to the customer over the computer network when the first quote is converted into the first order (confirmation email) [B&N, page 28].

Regarding claims 23, 46 and 69, B&N in view of Hartman teaches message includes an email (confirmation email) [B&N, page 28].

Claims 7, 30 and 53 are not patentable over Barnes & Noble hereinafter known as B&N (additional pages added to B&N reference, additional new pages were cited in the office action mailed to the appellant on 10 February 2006) in view of Hartman et al. US Patent 5,960,411 hereinafter known as Hartman further in view of Johnson et al. US Patent 5,712,989 hereinafter known as Johnson.

Regarding claims 7, 30 and 53, B&N in view of Hartman does not teach customer identifies the first item using a unique identifier used by the customer and wherein the vendor maps the identifier used by the customer to a corresponding unique identifier used by the vendor. However, Johnson teaches capability where customer identifies the first item using a unique identifier used by the customer and wherein the vendor maps the identifier used by the customer to a corresponding unique identifier used by the vendor [Johnson, Fig. 3 and disclosure associated with Fig. 3]

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify B&N in view of Hartman as taught by Johnson to handle alternate product numbers to enable the method and system to handle OEM clients.

(10) Response to Argument

In response to appellant's argument cited reference do not teach the claimed invention of bifurcated order processing route.

However, cited references clearly teaches the claimed invention. See B&N page 12, How to place an order using shopping cart, which clearly teaches that the customer selects the item and clicks on shopping cart (receiving a first online purchase request), customer can choose to Checkout Now or go back to Shopping (bifurcated order processing route that requests the customer to choose a first order processing route or a second order processing route).

In response to appellant's argument cited reference do not teach the claimed invention of execution of the first and any additional purchase requests placed in the shopping cart according to the express order processing route that requires no further input by the customer to execute," as claimed. Throughout the description of B&N's "Express Lane," the customer's purchase is referred to as "the item" (note the singular), and not as a shopping cart.

However, appellant is arguing a limitation not positively claimed by the appellant. Appellant has not positively claimed express checkout of a shopping cart with plurality of items.

In response to appellant's argument cited reference Hartman et al. makes it clear that the single-action ordering scheme disclosed therein is not related to the shopping cart model whose disadvantages are outlined in the background section.

However, appellant is separating references to make an argument. Cited reference B&N clearly teaches that the customer selects the item and clicks on shopping cart (receiving a first online purchase request), customer can choose to Checkout Now or go back to Shopping (bifurcated order processing route that requests the customer to choose a first order processing route or a second order processing route).

In response to appellant's argument whether considered alone or in combination, does not teach or suggest the claimed bifurcated order processing route or the execution of orders placed in a shopping cart in a manner that requires no further input by the customer to execute. Indeed, what is acknowledged to be missing from the primary reference to B&N is explicitly disavowed in the secondary reference to Hartman et al. (because Hartman et al. go to great lengths to state that their method is "independent of the shopping cart model" or carded out "without using a shopping cart model"). Therefore, that which is explicitly acknowledged to be missing from the primary

reference is also explicitly missing from the secondary reference, which is believed fatal to the applied § 103(a) rejections.

However, Hartman realized that the shopping cart required repeated input from customers, and, demonstrated in their invention that that it is possible to complete an online purchase without further input from the customer. B&N teaches that customer can place a item in shopping cart and use express checkout for the shopping cart. B&N in view of Hartman teaches concept of express checkout of shopping cart without further input from customer.

In response to appellant's argument Fig. 4 and its associated description at Col. 7, lines 4-23 of cited describe how to generate a Web page in which such single-action ordering is enabled. Such Web page includes information such as the customer's name and a portion of the customer's credit card information, and, cited reference Hartman et al., contrary to what is asserted by the Office, dose not teach the presently claimed second order processing route whereby the customer is afforded the opportunity to cause execution of the first and any additional purchase requests placed in the shopping cart to be processed according to the express ordering processing that requires no further input by the customer. Such a teaching is only found in the pending application.

However, appellant is arguing that express checkout of Hartman reference require customer to provide customer's name and a portion of the customer's credit card information every time the customer makes a purchase, which is not true. Customer's

name and a portion of the customer's credit card information are collected one time to be used for future purchase by the customer.

In response to appellant's argument cited references does teach a list having another list as one of its elements, and, shopping cart in which one of the items placed in the shopping cart comprises a list and one or more items.

However, appellant is arguing a customer order a group of products with identified as a bundle/package as their claimed invention. For example, Microsoft Office Suite, Vendor bundling group of items identified with a single product number which a customer can use to order the combined group of orders.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Naresh Vig

Conferees:



Vincent Millin



Janice Mooneyham